

OPENING STATEMENTS

FUNDAMENTALS OF TRIAL ADVOCACY
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Angela Andrews
Maricopa County Attorney's Office

PURPOSE

- ◉ Provide the jury a preview of your case
- ◉ Get the jury interested in your case
- ◉ Get the jury to see the facts from your point of view
- ◉ Provide a theme of your case

WHAT THE OPENING SHOULD CONTAIN

- ◉ Facts from the point of you most favorable to your case
- ◉ Possible weaknesses and defenses
- ◉ Complex legal concepts

IS THE OPENING STATEMENT IMPORTANT

- ◉ Jurors can be won in the opening statement
- ◉ It is your first impression to the jury
- ◉ It is the first impression the jury will have of what your witnesses have to offer
 - What if it is a bench trial?

DON'T

- ◉ DO Hit the jury with something powerful right from the start.
 - Don't introduce yourself,
 - Don't tell them what you're saying is not evidence,
 - Don't tell them the purpose of opening statements
 - Don't thank them for sitting there listening to you.
 - Don't stick to notes

WHAT HAPPENS IF THIS IS YOUR OPENING STATEMENT???

Your Honor, Judge Ito, Mr. Cochran and Mr. Shapiro and Dean Uelmen, to my colleagues seated here today in front of you and to the real parties in interest in this case, the Brown family, the Goldman family and the Simpson family and to you, ladies and gentlemen of the jury, good morning. I think it's fair to say that I have the toughest job in town today except for the job that you have. Your job may just be a little bit tougher. It's your job — like my job, we both have a central focus, a single objective, and that objective is justice obviously. It's going to be a long trial and I want you to know how much we appreciate your being on the panel. We appreciate the personal sacrifices you're making by being sequestered. We understand that can be difficult.

DO

- ◉ Have a theme
- ◉ Weave your theme through your story (don't call it a story though)
- ◉ Tell the jury (don't ask) what to do
- ◉ Make it interesting

WHAT IS A THEME?

a simple and short statement that tells the jury what your case is about that can be weaved throughout your case.

DEVELOPING A THEME

What does the case involve?

violation of trust
dangerous behavior
disregard for others
secrecy
pecuniary gain
advantage of the vulnerable

DEVELOPING A THEME

What are the defenses - how does Defendant think he/she will win?
address weaknesses

DEVELOPING A THEME

What does the jury have to decide?
Bring the jury into your case by using life experience ideas rather than legal ideas.

TELL A STORY

- ◉ Whose point of view do you want to tell the story from
 - Victim or Witness
 - Defendant
 - Officer
 - Neutral
- ◉ What order do you want to tell the story
 - Chronological?
 - Start at the end?
 - Start at a strong point?

But DON'T call it a story

TELL A STORY

- ◉ Hit the important parts of your case. What do you really need the jury to know before you start
- ◉ Don't make it too long or try to hit every point or be tied to notes so that you don't forget.

USE STATEMENTS FROM THE CASE

- ◉ Victim statements
- ◉ Witness statements
- ◉ Defendant statements
- ◉ Character witness statements

Make sure the statement is admissible.

DRAW THE STING

Addresses weaknesses

- ◉ Victim/witness memory issues
- ◉ Victim/witness credibility
- ◉ Police mistakes
- ◉ Missing evidence
- ◉ Circumstantial evidence

WHAT TO DO WITH THE LAW

Ignore it:

Unless:

There are complex legal issues:

- Kidnapping
- Accomplice liability
- Felony murder
- Conspiracy

END STRONG

- ◉ Save some best facts for last
- ◉ Use your theme at the end
- ◉ Tell the jury - don't ask - what to do

TAMMI SMITH OPENING STATEMENT EXAMPLE
